

### **REMARKS**

This response is submitted in reply to the outstanding Office Action dated November 10, 2008. Claims 1-13 currently stand rejected. Previously withdrawn claims 14-20 have been canceled, without prejudice. Applicants have amended claim 9 for purposes of improving clarity. No new matter has been added by the amendment.

In light of the amendment and the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present invention.

#### **Claim Rejections - 35 USC §112**

Claim 9 currently stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for reciting "and/or". Applicants have amended claim 9 for clarity. Accordingly, Applicants respectfully submit that the rejection of claim 9 as being indefinite is overcome.

#### **Claim Rejections - 35 USC §103**

Claims 1-5 currently stand rejected under 35 U.S.C. §103(a) as being unpatentable over Freeman et al. (U.S. Patent No. 6,019,284, hereinafter "Freeman") in view of Tuttle et al. (U.S. Patent No. RE40137, hereinafter "Tuttle"). Claims 5-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Freeman and Tuttle and further in view of Gustin et al. (U.S. Patent No. 5,987,439, hereinafter "Gustin").

Independent claims 1 and 5 each recite, *inter alia*, a cap defining a contact window, the cap being mounted in the recess over the display tag with the contacts being accessible through the contact window. In other words, the contacts defined in the claimed invention are accessible through the contact window that is mounted in a recess that covers over the display tag. Applicants respectfully submit that this feature is neither taught nor suggested by the cited references, alone or in combination.

The Office Action admits, and Applicants agree, that Freeman fails to teach or suggest the above underlined feature of independent claims 1 and 5. In fact, although Freeman is related to a "contact-type chip card" (col. 3, line 57) having contacts exposed on the surface of the card

(col. 2, lines 64-67), Freeman clearly discloses that such contacts (element 20 on FIGS. 1A and 1C) are located within a separate portion of the card from the display. Thus, the contacts of Freeman are clearly not accessible through the contact window mounted in a recess over the display tag as provided in the claimed invention.

Tuttle relates to a radio frequency identification device (see Abstract and throughout Tuttle). Thus, as an initial matter, Tuttle does not disclose a contact-type transaction card at all and therefore necessarily fails to disclose a card having contacts that are accessible through the contact window mounted in a recess over the display tag as provided in the claimed invention. The Office Action asserts that the above underlined feature is disclosed at col. 5, lines 38-45, which describes FIGS. 4 and 5 of Tuttle. However, as is clearly evident from FIGS. 6 and 7 of Tuttle, the components within the recess of Tuttle (that are shown in FIGS. 4 and 5) are fully covered by the cap (40) of FIGS. 6 and 7 so that there are no contacts accessible through the cap (40). Moreover, there would be no reason to have any contacts accessible through the cap (40), since the card of Tuttle is specifically designed to permit wireless communication with the components inside the card, instead of requiring contacts for such communication. Thus, Tuttle also fails to teach or suggest a cap defining a contact window, the cap being mounted in the recess over the display tag with the contacts being accessible through the contact window as provided in independent claims 1 and 5.

Gustin also fails to teach or suggest a cap defining a contact window, the cap being mounted in the recess over the display tag with the contacts being accessible through the contact window as provided in independent claims 1 and 5, and is not cited as such. Since Freeman, Tuttle and Gustin each fail to teach or suggest a cap defining a contact window, the cap being mounted in the recess over the display tag with the contacts being accessible through the contact window as provided in independent claims 1 and 5, any combination of the cited references also fails to teach or suggest such features. Accordingly, independent claims 1 and 5 are patentable over the cited references, alone or in combination. Claims 2-4 and 6-13 depend either directly or indirectly from independent claims 1 and 5, respectively. Thus, dependent claims 2-4 and 6-13 include all the recitations of their respective independent claims and are

Appl. No.: 10/669,741  
Amdt. Dated 02/10/2009  
Reply to Office Action of 11/10/2008

patentable over the cited references for at least the same reasons given above for independent claims 1 and 5.

Accordingly, Applicants respectfully submit that the rejections of claims 1-13 are traversed.

Appl. No.: 10/669,741  
Amdt. Dated 02/10/2009  
Reply to Office Action of 11/10/2008

**CONCLUSION**

In view of the amendment and the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

  
Chad L. Thorson  
Registration No. 55,675

**Customer No. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel. Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES  
PATENT & TRADEMARK OFFICE ON February 10, 2009.**

LEGAL02/31073235v1